

CCR168

Mental Health Units (Use of Force) Act 2018 Policy

Policy & Procedures

Berkshire Healthcare NHS Foundation Trust



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Version:	1

Following an initial review of this policy, on 9 May 2025 the Policy Author and Policy Scrutiny Group deemed the policy usable whilst a comprehensive review is being undertaken. The revised review due date is May 2026. Please continue to refer to and use as is.



Berkshire Healthcare

NHS Foundation Trust

CCR168

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POLICY DEVELOPMENT

History: New Policy

Designated Leads: Operational and Clinical Directors for Mental Health Inpatient Services and the Head of Service and Nurse Consultant for Learning Disability Services.

Policy Consultants: Director of Mental Health Inpatients
Clinical Director – Mental Health Inpatients
Head of Learning Disability and Specialist Services
Service Manager from Child and Adolescent Mental Health Services, Learning Disability Services and inpatient Mental Health Services
Nurse Consultants for Mental Health and Learning Disability Services
Head of Mental Health Act
Lead Personal Safety and Violence Reduction Specialist

Endorsed by: Policy Scrutiny Group – 13th May 2022

This policy has been assessed for compliance with CQC Fundamental Standards.

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1. INTRODUCTION, SCOPE, AND PURPOSE

The Mental Health Units (Use of Force) Act 2018 ('the Act') was enacted on 1st November 2018 having been introduced via a Private Members Bill following the death of Olaseni Lewis, who was restrained by 11 police officers in the Bethlem Hospital in 2010. As such, the Act is sometimes referred to in the media as 'Seni's law'.

The purpose of the Act is to make provision about the oversight and management of the appropriate use of force in relation to people in mental health units. For the purpose of this policy, the use of force refers to the use of physical, mechanical or chemical restraint or the isolation of a patient.

During future registration, inspection and monitoring processes, the Care Quality Commission are likely to take account of the Trust's compliance with the requirements of this Act.

This policy sets out the Trust's responsibilities in connection with the Mental Health Units (Use of Force) Act 2018.

The policy sets out how roles should be allocated, where and how information should be recorded and how reporting requirements are managed.

The policy should be read in accordance with the Mental Health Units (Use of Force) Act 2018, the Mental Health Units (Use of Force) Act 2018 Statutory guidance for NHS organisations in England, and police forces in England and Wales, the Mental Health Act Code of Practice 2015, The Equality Act 2010, and Trust policies:

- Seclusion CCR021
- Time Out CCR148A
- Long Term Segregation CCR148B
- PMVA Prevention and Management of Violence and Aggression (PMVA) in Mental health Services CCR038
- Rapid control/tranquilisation of acutely disturbed behaviour CCR052
- Physical Intervention – Learning Disabilities (PROACT-SCIPr-UK®) CCR037

2. DUTIES AND RESPONSIBILITIES

- 2.1 **The Chief Executive** is responsible for the implementation of this policy throughout Berkshire Healthcare.
- 2.2 **The Medical Director** is the nominated Responsible Person under the Act for Berkshire Healthcare
- 2.3 **The Associate Medical Director – Mental Health Inpatients** is the nominated deputy Responsible Person under the Act for Berkshire Healthcare
- 2.4 **The Divisional Directors/Heads of Service** of Mental Health and Learning Disability inpatient units are responsible for implementing this policy across their services
- 2.5 **The Clinical Directors and Nurse Consultants** of Mental Health and Learning Disability inpatient units are responsible for clinical leadership and oversight of the implementation of the policy into their respective services/wards.

- 2.6 **Service Managers/Modern Matrons/ Ward Managers/Team Leads** are responsible for monitoring of this policy and ensuring that their staff are aware of, and are compliant with, this policy.
- 2.7 **The Ward Staff** are responsible for the correct execution of this policy and ensuring that all leave is arranged effectively.

3. **SECTION 1 VoFA – DEFINITIONS**

- 3.1 References to ‘mental disorder’ are the same as in the Mental Health Act 1983; “any disorder or disability of the mind”.
- 3.2 A Mental Health Unit (for the purposes of the Trust) means a hospital or part of a hospital which provides treatment to in-patients for mental disorder.
- 3.3 Patient means a person who is in a mental health unit for the purpose of assessment or treatment of their mental disorder.
- 3.4 References to ‘use of force’ are to:
- the use of physical, mechanical or chemical restraint; or
 - the isolation of a patient
- 3.5 Physical restraint means physical contact which is intended to prevent, restrict or subdue movement of any part of a patient’s body.
- 3.6 Mechanical restraint means the use of a device which is intended to prevent, restrict or subdue movement of any part of a patient’s body and which has the primary purpose of behavioural control.
- 3.7 Chemical restraint is the use of medication which is intended to prevent, restrict or subdue movement of any part of a patient’s body. This includes Rapid Tranquilisation. (NICE guideline (NG10) [Violence and aggression: short-term management in mental health, health and community settings](#))
- 3.8 Isolation is seclusion or segregation that is imposed on a patient.
- 3.9 Negligible Force is set out in full in the Statutory Guidance (<https://www.gov.uk/government/publications/mental-health-units-use-of-force-act-2018>) on pages 46-50. The use of force can only be considered negligible where it involves light or gentle and proportionate pressure. It is anticipated that negligible force will only apply in a small number of circumstances. The use of force cannot be considered negligible if any of the following apply, 1. rapid tranquilisation has been used, 2. There has been any use of mechanical restraint, or 3. the patient verbally or physically resists the contact of a member of staff.

4. **SECTIONS 2 AND 10 VoFA – IDENTIFYING THE RESPONSIBLE AND RELEVANT PERSONS**

- 4.1 The Trust is required to appoint a single Responsible Person who is employed by the Trust and is “of an appropriate level of seniority” in relation to all of our hospitals which are mental health units. The Medical Director for Berkshire Healthcare is identified as the Nominated

Person and the Associate Medical Director – Mental Health Inpatients is the Deputy Nominated Person.

- 4.2 Whilst retaining responsibility, the Responsible Person may delegate their functions to a “relevant person”. Again, this person must be “of an appropriate level of seniority”. The Responsible Person may delegate their functions under the Act to more than one person. Who the relevant people are is set out in the Scheme of Delegation (Appendix 1).

5. SECTION 3 VoFA - DUTY OF RESPONSIBLE PERSON REGARDING THIS POLICY

- 5.1 The Responsible Person is legally required to consult on, publish and keep under review, this policy in relation to all of the Trust’s hospitals (as described in 3.2 above) and this must include what steps the Trust is taking to reduce the use of force in those units (see below).
- 5.2 The policy has been developed by the use of force policy working group. The use of force policy working group have consulted with the policy consultants as detailed on page 1. For ratification, the draft policy has been presented to the Policy Scrutiny Group and endorsed through SECEG. The policy will be reviewed in line with the Trust policy review process.

6. SECTION 4 VoFA- DUTY OF RESPONSIBLE PERSON REGARDING INFORMATION ABOUT USE OF FORCE

- 6.1 The Responsible Person is legally required to consult on, publish and keep under review, information for patients about the use of force that may be used by staff who work in the hospital. Information must be provided in line with the accessible information standards and tailored to the patient population group's needs. It should be provided to (unless refused) each patient and any other person to whom the Responsible Person considers it appropriate to provide that information to. This information should include details of the Responsible Person.
- 6.2 Section 4 of the act identifies the responsibility of the provision of information, where appropriate, for people using the service, their families and carers about the use of force that a patient may experience in a mental health unit. This must include information on any use of force that may be used and information about the patient’s rights in relation to any use of force in any BHFT mental health unit.
- 6.3 The information must be provided as soon as practicable after the patient is admitted to the hospital and in a way the patient understands. In a similar way to information provided under section 132 of the Mental Health Act. The clinical team areas, as delegated by the responsible person, are required to take reasonably practicable steps to ensure that the patient is aware of the information and understands it. This information will be documented in the Nursing admission summary and reviewed during regular 1:1. The information to be given to the patient is set out in appendix 2.

7. SECTION 5 VoFA - DUTY OF RESPONSIBLE PERSON RE TRAINING IN APPROPRIATE USE OF FORCE

- 7.1 The Responsible Person is legally required to provide training for all staff (including temporary, bank or agency) that relates to the use of force and it must include the following topics:

- (a) how to involve patients in the planning, development and delivery of care and treatment in the mental health unit,
- (b) showing respect for patients' past and present wishes and feelings,
- (c) showing respect for diversity generally,
- (d) avoiding unlawful discrimination, harassment and victimisation,
- (e) the use of techniques for avoiding or reducing the use of force,
- (f) the risks associated with the use of force,
- (g) the impact of trauma (whether historic or otherwise) on a patient's mental and physical health,
- (h) the impact of any use of force on a patient's mental and physical health,
- (i) the impact of any use of force on a patient's development,
- (j) how to ensure the safety of patients and the public, and
- (k) the principal legal or ethical issues associated with the use of force.

7.2 The training will be provided as soon as practicable after the Act comes into force. This will be done through sharing of a standardised training package, by the ward managers, to their teams ensuring they have assurance that all staff are aware of the Act and the requirements.

7.3 Newly appointed staff and refresher training will be delivered as part of several other training packages for example, PMVA. PROACT-SCIPr-UK®, Mental Health Act and Rapid Tranquilisation training. .

8. SECTION 6 VoFA- DUTY OF RESPONSIBLE PERSON REGARDING RECORDING OF USE OF FORCE

8.1 The Responsible Person is legally required to record any use of force by staff that is not negligible. The use of force that can be considered negligible is detailed in section 3.9 above.

8.2 The Use of Force is recorded on incident records held within the trusts integrated risk system DATIX, made available through service level dashboards for review. The data will be reviewed quarterly at the Restrictive Interventions Group

8.3 PRN medication which only includes medication that could or would be used for the management of patients behaviour, this would not include medications such as:

- Sleeping aids
- Medication utilised for the management or treatment of physical health

These events where no incident has occurred will be recorded on the EPMA recording tool stored within the trusts integrated risk recording system DATIX.

This will be replaced with direct reporting on preferably the trusts EPMA recording tool when the trust acquires an EPMA tool that can deliver the Use of Force Act requirements.

8.4 The record (which must be kept for 3 years) must include the following information:

- (a) the reason for the use of force;
- (b) the place, date and duration of the use of force;
- (c) the type or types of force used on the patient;

- (d) whether the type or types of force used on the patient formed part of the patient's care plan;
- (e) name of the patient on whom force was used;
- (f) a description of how force was used;
- (g) the patient's consistent identifier (in accordance with data protection legislation);
- (h) the name and job title of any member of staff who used force on the patient;
- (i) the reason any person who was not a member of staff in the mental health unit was involved in the use of force on the patient;
- (j) the patient's mental disorder, if known;
- (k) the relevant characteristics of the patient, if known (age, nature of any disability, marital/civil partnership status, pregnancy, race, religion/belief, sex, sexual orientation, gender reassignment);
- (l) whether the patient has a learning disability or autistic spectrum disorders;
- (m) a description of the outcome of the use of force;
- (n) whether the patient died or suffered any serious injury as a result of the use of force;
- (o) any efforts made to avoid the need to use force on the patient;
- (p) whether a notification regarding the use of force was sent to the person or persons (if any) to be notified under the patient's care plan.

8.5 Use of Force is submitted via the NHS Digital Mental Health Services Data Set and will form the basis of a report published by the secretary of state each year. It includes the data set outlined above and additionally includes police Use of Force and all medication administered intramuscularly

9. SECTION 9 VoFA - DUTY OF RESPONSIBLE PERSON RE INVESTIGATION OF DEATHS OR SERIOUS INJURIES

9.1 When a patient dies or suffers a serious injury in a hospital, the responsible person is legally required to have regard to any guidance relating to investigation of deaths or serious injuries that is published by:

- (a) Care Quality Commission;
- (b) NHS England/NHS Improvement;

10. SECTION 12 VoFA - POLICE BODY CAMERAS

10.1 If the police attend a hospital to assist staff, they must if practicable, take and wear a body camera and keep it operating.

11. Community Health Wards

11.1 The Guidance suggests that a mental health unit includes anywhere where patients are admitted and treated for their mental health. Although, very rare, it is possible that a patient could be admitted to a Berkshire Healthcare Community Health ward for the treatment of their mental disorder. For example, being detained under the Mental Health Act.

11.2 Data indicates that this only happened once in the last ten years, so it is very unlikely to happen and therefore it is not practical to train all the staff in the community health inpatient services in the requirements of the Act.

11.3 In the event that a patient is admitted to a Community Health Ward for the treatment of their mental disorder the ward through their ward manager/matron should seek support and

guidance from the Deputy Director of Nursing and Head of Mental Health Act to ensure the requirements of the Act are met.

11.4 Patient information leaflets that can be given to the patients are available from MarComms.

12. Escalation

12.1 Divisions are addressing their restrictive practices and actively seeking to ways to reduce the use of restrictions and force, to develop a more collaborative and trauma informed approach through some of the work detailed below which is over seen at monthly restrictive practices meetings:

- Reduction of restraint
- Reduction in the use of seclusion and long-term segregation
- Ongoing reduction in the use of prone restraint
- Reviewing the use of restraint and inappropriate use of force
- Regular review and reporting of blanket restrictions

12.2 The divisional work and information, as well as the information dashboards, are overseen at the bimonthly Restrictive Interventions Group and reports through the Mental Health Act Governance Board for assurance.

13. References

The Mental Health Units (Use of Force) Act 2018

<https://www.legislation.gov.uk/ukpga/2018/27/enacted>

Mental Health Units (Use of Force) Act 2018 Statutory guidance for NHS organisations in England, and police forces in England and Wales

<https://www.gov.uk/government/publications/mental-health-units-use-of-force-act-2018>

The Mental Health Act 1983

<https://www.legislation.gov.uk/ukpga/1983/20/contents>

The Mental Health Act Code of Practice 2015

<https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983>

The Equality Act 2010

<https://www.legislation.gov.uk/ukpga/2010/15/contents>